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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,107	08/01/2003	Alexander T. Schwarm	7720 FPS/MMCS/APC	3475
7590	09/15/2004		EXAMINER	
			BAHTA, KIDEST	
		ART UNIT	PAPER NUMBER	
		2125		
DATE MAILED: 09/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/632,107	SCHWARM ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kidest Bahta	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-67 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6,12,16-21,27-36,42,46-51,57 and 61-66 is/are rejected.
- 7) Claim(s) 7-11, 13-15, 22-26,37-41, 43-45,52-56, 58-60, 67 and 68 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. ____ .   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>16/06/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: ____ .                                   |

***Information Disclosure Statement***

1. The information disclosure statement filed August 1, 2003, pages 12-13, has not been considered because the applications are not available. Please provide the copy of the document (U.S. applications).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6, 12, 16-21, 27-36, 42, 46-51, 57 and 61-66 are rejected under 35 U.S.C. 102(e) as being anticipated by Wright et al. (U.S. Patent 6,774,998).

Regarding claims 1, 16, 31, 46, 61 and 65, Wright discloses a) a receiving a plurality of data points relating to an output of the tool including a current data point and at least one previous data point ((column 12, lines 40-43), b) determining whether the current data point is outlier based on: b-1) comparing the current data point to statistical representation of the at least one previous data point (column 9, lines 15-26, 57-62; column 8, lines 50-55); b-2) whether the at least one previous data point is outlier (column 11, lines 27-35); c) disregarding the current data point in calculating a feedback

value of the feedback control mechanism if the current data point is determined as an outlier (column 8, lines 42-62; column 9, lines 10-35; column 11, lines 9-12).

Regarding claims 2-6, 12, 17-21, 27-36, 42, 47-51, 57, 62-66, Wright discloses calculating the feedback value of the feedback control mechanism using the current data point and the at least one previous data point if the current data point is determined as not an outlier (column 9, lines 10-26; column 11, lines 1-11); calculating a previous feedback value for at least one previous data point and then calculating the feedback value on the previous feedback value and the current data point if the at least one previous data point is an outlier and the current data point is an outlier (column 9, lines 49-61); the statistical representation of b-1 is a weighted moving average of the at least one previous data point (column 11, lines 13-35), making a plurality of measurements on the output of the tool using at least one metrology station (abstract) and calculating the current data point based on the plurality of measurements (column 11, lines 30-35).

***Allowable Subject Matter***

4. Claims 7-11, 13-15, 22-26, 37-41, 43-45, 52-56, 58-60 and 67-68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
6. Any inquiry concerning communication or earlier communication from examiner should be directed to Kidest Bahta, whose telephone number is (703) 308-6103. Examiner can normally be reached on M-F from 7:30 a.m. to 4:00 p.m. EST. If attempts to reach examiner by phone fail, examiner's supervisor, Leo Picard, can be reached (703) 308-0538. Additionally, fax phones for Art Unit 2125 is (703) 872-9306. Any inquiry of a general nature or relating to status of this application should be directed to group receptionist at (703) 305-9600.

Kidest Bahta



September 13, 2004